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10/565,795

03/31/2008

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EXAMINER

WEISZ, DAVID G

ART UNIT

PAPER NUMBER

1777

MAIL DATE

DELIVERY MODE

03/16/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/565,795 | Applicant(s) BINKLE ET AL. | |
| | Examiner DAVID WEISZ | Art Unit 1777 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/25/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 12, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites “wherein the ceramic filter element is produced...” The method of making the ceramic filter element does not further limit the structure of the claims. It is unclear if the applicants intended to define the composition of the filter element.

Claim 14 recites “the ceramic filter element has a mouthpiece”. It is unclear what structurally differentiates a mouthpiece from any other inlet or outlet.

Claim 16 recites “further comprising attachments or quick-acting closures cooperating with said housing cover and/or said housing body for coupling to fittings or hoses”. It is unclear what is meant by an attachment or quick-acting closure, and how it structurally allows the housing to be coupled to a fitting or hose.

The claims are therefore rendered indefinite as the claim language as it is currently recited is unclear.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 10-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al. (US 6203697, referenced in IDS) (Ferguson) in view of Sawan et al. (US 5681468) (Sawan).

Regarding claim 10, Ferguson discloses a ceramic filter element for cleaning water (see "water supply", abstract and "ceramic", Col8/L12-34), the element comprising: a housing (see "housing", Col8/L12-34), said housing defining a water inlet (see "inlet", Col8/L12-34), a water outlet, and a cleaning outlet (see "outlet openings", Col8/L12-34); a tubular body disposed within said housing (see Figure 15), said tubular body having at least one wall and at least one through opening extending along an entire length of said tubular body (see Figure 15), said tubular body having an open first end communicating with said inlet and an open second end (see Figure 15); and a closure member, sealing said cleaning outlet and closing said open second end of said tubular body (see "closed end caps" and "plugs", Col8/L12-34), wherein water to be filtered flows under pressure from an outer surface into said through opening or from an inner surface of said through opening to an outer surface of the filter element (see Figure 15).

However, Ferguson does not specifically disclose that the wall is structured and dimensioned as at least one of a functional layer and as a carrier having a functional coating.

Sawan discloses a ceramic filter element for decontaminating a liquid (see abstract). Further, the reference discloses that the filters are coated with silver ions, as they provide bacteriocidal properties (see “bacteriocidal” and “silver ions”, Col9/L53-61). It would have been obvious to one having ordinary skill in the art to coat the filter of Ferguson with the silver coating of Sawan, as it would provide bacteriocidal properties, beneficial for water filtration.

Regarding claim 11, Ferguson discloses that the filter element is rod-shaped with a circular cross-section having multiple through openings (see Figure 15).

Regarding claim 12, Sawan discloses that the ceramic may be sintered ceramic (see “sintered”, Col6/L5-10).

Regarding claim 13, Ferguson discloses that the filter housing may be made of activated charcoal (see “filter housings”, “activated charcoal”, Col8/L12-34).

Regarding claim 14, the references do not specifically disclose that the filter element has a mouthpiece. However, Ferguson does disclose that the filter device has a number of inlets and outlets which could potentially be used as a mouth piece (see “intlet” and “outlet”, Col8/L12-34).

Regarding claim 15, Ferguson discloses that the housing is formed in multiple parts (see Figures 1 and 2a). As the filter device of Ferguson is drawn towards water filtration, it would have been obvious to one having ordinary skill in the art that the filter housing elements are assembled in a water-tight manner.

Regarding claim 16, the references do not specifically disclose attachments or quick-acting closures to allow the housing to be coupled to a fitting or hose. However, Ferguson discloses that the filtration device is to be used in conjunction with residential or office water distribution systems (see “water distribution systems”, Col1/L20-40). One having ordinary skill in the art would thus understand that the housing would be structured in such a way to allow it to be coupled to the water distribution system.

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Regarding claim 17, Sawan discloses that the filter is porous and the pore size can be adjusted to affect flow rate (see "pore size" and "flow rate", Col6/L11-26). Thus, it would have been obvious to one having ordinary skill in the art to optimize the pore sizes of the filter and coating to achieve the desired flow rate.

Regarding claim 18, Sawan discloses that the coating is a material containing silver ions (see "silver ions", Col9/L53-61).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID WEISZ whose telephone number is (571)270-7073. The examiner can normally be reached on Monday - Thursday, 7:30 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571)272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

3/11/2011

/Yelena G. Gakh, Ph.D./
Primary Examiner, Art Unit 1777

/D. W./

Examiner, Art Unit 1777

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